

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 40—Land Reclamation Commission  
Chapter 10—Permit and Performance Requirements for  
Industrial Mineral Open Pit and In-Stream Sand and  
Gravel Operations**

**PROPOSED AMENDMENT**

**10 CSR 40-10.020 Permit Application Requirements.** The director is amending subsections (2)(E)–(F), (2)(H)–(J), and (3)(A).

*PURPOSE: The amendment will increase acreage, site and total fees for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operation mining more than five thousand (5,000) tons per year along with clarifying public notice certified mail out requirements, aligning the rules with a name change of a federal government agency and changing a recommendation to a decision by the director for permit issuance or denial.*

(2) As required by section 444.772, RSMo, an applicant shall provide a complete application package submitted which includes the following:

(E) Two (2) different maps sufficient for the following purposes:

1. One (1) map sufficient to locate and distinguish the mining site from other mine sites in the general area of the county;

2. One (1) map of sufficient scale and detail to illustrate the following:

A. The names of any persons or businesses having any surface or subsurface interest in the lands to be mined, including owners or leaseholders of the land and utilities as well as the names of all record landowners of real property located contiguous or adjacent to the property proposed [mine plan area:] for mining;

(II) *Contiguous shall mean in actual contact, touching along a boundary or at a point;*

(III) *Adjacent shall mean immediately opposite from, as in across a road right-of-way, or across a river or stream;*

(III) *Neither definition shall include the names of any record landowners of contiguous real property or real property located in an adjacent state, but only land located in the state of Missouri;*

B. The boundaries and the acreage of each site, if proposing multiple sites, of all areas proposed to be affected over the permit term;

C. The approximate location of public roads located in or within one hundred feet (100') of the proposed permit area;

D. The date that the map was prepared, a north arrow and section, township, and range lines;

E. The name of the creek or stream being mined, if an in-stream operation is proposed;

F. This map must be prepared on an original or clearly copied United States Geological Survey (USGS) seven and one-half (7 1/2) minute topographical map, county assessor map, [Agricultural Stabilization Conservation Service (ASCS)] Farm Service Agency (FSA) aerial photos or up-to-date county ownership plats or on a map of equal or better quality; and

G. The locations of terraces, waterways, diversions, and post-mining land use designations shall be identified on the permit map;

3. Both maps and all copies submitted must be clearly legible and must contain the company name, mine or site name, date of last map edit, scale indication (such as a scale bar or numerical ratio), and a symbol definition key for any special symbols used; and

4. If the applicant requests a permit for a portion of the area described in a long-term operation and reclamation plan, the applicant shall indicate the boundary of the proposed permit area and the boundary of the area proposed to be disturbed over the life of the mine on the map required by paragraph (2)(E)2. of this rule;

(F) All required fees based upon the type of operation and amount of production as follows:

1. An annual permit fee of [five hundred dollars (\$500)] eight hundred dollars (\$800)/.;

2. An annual site fee for each site listed on a permit [of three hundred dollars (\$300). If surface mining operations are not conducted at a site for a total of six (6) months or more during any one (1) permit year, the fee for such site for that year shall be reduced by fifty percent (50%) or to the amount of one hundred fifty dollars (\$150)] consisting of a hundredth (.01) to ten (10) acres a two hundred dollars (\$200) site fee, ten and a hundredth (10.01) to seventy five (75) acres a five hundred dollars (\$500) site fee, seventy five and a hundredth (75.01) to two hundred (200) acres an eight hundred dollars (\$800) site fee and a site consisting of more than two hundred (200) acres a site fee of one thousand dollars (\$1,000)/.;

3. An annual acreage fee for each acre bonded by the operator of [five] thirteen dollars (\$13) per acre for each acre permitted/.;

4. For any operator of a gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand (5,000) tons, the total cost of submitting an application shall be three hundred dollars (\$300)/.; and

5. In no case shall the total fee for any permit be more than [two thousand five hundred dollars (\$2,500)] six thousand dollars (\$6,000); except after January 1, 2019 the total fee shall not be more than seven thousand five hundred dollars (\$7,500) and after January 1, 2021 the total fee shall not be more than nine thousand dollars (\$9,000)/.;

[6. Fees imposed shall expire on December 31, 2007;]

(H) At the time the application is deemed complete by the director, the applicant shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to section 493.050, RSMo, to publish legal notices in any county where the mine plan area is located. Notice in the newspaper shall be posted once a week for four (4) consecutive weeks beginning no more than ten (10) days after the application is deemed complete in writing by the director via certified mail upon receipt by the applicant. The applicant shall advertise a public notice in accordance with this subsection each time the applicant files a permit application for a new mine, files a request for expansion to an existing mine, when making revisions to the original operation and reclamation plan and when transferring the permit to a new operator, as defined in sections (5)–(7) of this rule. Public notices shall not be required for renewing existing permits or to permit additional acreage within a currently approved longterm operation and reclamation plan, as defined in paragraph (2)(D)6. of this rule. The notice must contain the following:

1. A statement of intent to conduct surface mining specifying the mineral and estimated period of operation;

2. The name and address of the operator;

3. A legal description of affected land consisting of county, section, township, and range;

4. The number of acres involved; and

5. A statement informing the public that written comments or a request for [a hearing and/or] an informal public meeting may be made by any person with a direct, personal interest in one (1) or more of the factors that the [Missouri Land Reclamation Commission] director may consider in issuing a permit as required by The Land Reclamation Act, sections 444.760 to 444.790, RSMo, [for whose health, safety or livelihood will be unduly impaired by the issuance of a permit] regarding items such as permitting and reclamation requirements, erosion and siltation control, excavations posing a threat to public safety, or protection of public road rights-of-way. [If a hearing is held the commission has the ability to consider if the applicant has demonstrated a pattern of noncompliance with other environmental protection laws and regulations administered by the Missouri Department of Natural Resources.] Written comments shall be sent to the Director of Staff, Land Reclamation Program, Department of Natural Resources, at the program's latest mailing address. All comments and requests for

[hearings and/or] a public meeting/s) must be submitted in writing to the director's office within fifteen (15) days of the last date of publication of the notice;

(I) At the time the application is deemed complete by the director, the applicant shall also mail letters containing a notice of intent to operate a surface mine.

1. The applicant shall send the letters containing a notice of intent to operate a surface mine by certified mail to:—

A. The governing body of the counties or cities in which the proposed area is located; and

B. The last known addresses of all first tier record landowners [of contiguous real property or real property located adjacent to the proposed mine plan area] whose property is within two thousand six hundred forty feet (2,640'), or one-half (1/2) mile from the border of the proposed mine plan area; and adjacent to the proposed mine plan area, land upon which the mine plan area is located, or adjacent land having a legal relationship with either the applicant or the owner of the land upon which the mine plan area is located.

2. The content of the notice sent under this subsection shall be the same as the public notice requirements under subsection (2)(H) of this rule; and

(J) The applicant shall submit proof that:—

1. All certified letters required by this rule have been sent to all applicable parties, as listed above. Receipts showing that all parties have been properly served shall be submitted to the program to verify delivery; and

2. The newspaper ads have been run properly by submitting copies of the affidavits of publication that states the newspaper has complied with section 493.050, RSMo.

3. Such proof must be provided by the applicant prior to the director making a [recommendation] decision for approval or denial of the permit.

(3) As required by section 444.772, RSMo, any mining permit covering affected land that has not been totally reclaimed and released from liability prior to permit expiration must be renewed annually.

(A) The operator shall submit a permit renewal form furnished by the director for an additional permit year and pay an annual fee equal to an application fee calculated pursuant to subsection (2)(F) of this rule, but in no case shall the annual renewal fee for any operator be more than [two thousand five hundred dollars (\$2,500)] six thousand dollars (\$6,000); except after January 1, 2019 the total fee shall not be more than seven thousand five hundred dollars (\$7,500) and after January 1, 2021 the total fee shall not be more than nine thousand dollars (\$9,000).

**AUTHORITY:** section 444.768, RSMo Supp. 2014, and section 444.530, RSMo 2000. Original rule filed Aug. 2, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 12, 2015.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will cost private entities an estimated two hundred three thousand dollars (\$203,000) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** A public hearing on this proposed amendment will begin at 9:00 a.m. on October 19, 2015. The public hearing will be held at 1101 Riverside Drive, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Director, Missouri Department of Natural Resources' Land Reclamation Program, PO Box 176,

Jefferson City, MO 65102-0176, (573) 751-4041. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., October 19, 2015. Written comments should be sent to Program Director, Land Reclamation Program, PO Box 176, Jefferson City, MO 65102-0176.

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title: Department Of Natural Resources  
Division Title: Missouri Geological Survey  
Chapter Title: Permit and Performance Requirements for Industrial Mineral Open Pit and In-Stream Sand and Gravel Operations**

<b>Rule Number and Title:</b>	10 CSR 40-10.020 Permit Application Requirements
<b>Type of Rulemaking:</b>	Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
215	<p>Mining Operators who mine greater than 5,000 tons of sand and gravel to include in-stream and open pit operators</p> <p>Mining Operators who are Open Pit Operators who do not mine sand and gravel</p>	<p>There is a combination of factors to consider. Each operator can have ranging from 0.1-1500+ acres over a variety of sites, at any time the factors within an operation can change from how many acres are being mined to how many sites are associated with those acres. For projected costs, please reference information in section III below.</p> <p>This proposed rule will cost private entities an estimated two hundred and three thousand dollars (\$203,000) in the aggregate.</p>

**III. WORKSHEET**

Permit Type	Projected Additional Costs
Sand & Gravel Operations Mining < 5,000 tons instream mining	There would be no increase to current costs.
<p>Sand &amp; Gravel Operations Mining &gt; 5,000 tons in-stream mining and/or Open Pit Mining</p> <p><i>Note: Operators can have both instream and open pit mining operations.</i></p>	<p>There would be no increase to current permit fees. Increases will be to bonded acreage and site fees. <i>Mining operators have permitted acres, a portion or all of which will be bonded. Permitted acreage is the number of acres associated with each site under the permit certificate for instream mine sites. Instream sites are not required to have bonded acres; however, the permit certificate will reflect the amount of acres associated with each site. Bonded acreage is the number of open pit acres being mined and disturbed listed on the permit certificate.</i></p> <p>Bonded acreage fee will increase from \$10 to \$13. There are 33,311.7 bonded acres (x\$10) which currently generates \$333,117. When the bonded acreage fee is increased by \$3 for a total of \$13 the generated income will be \$433,052.17. The newly generated income based on projected bonded acreage fee increase amount will be approximately \$100,000.</p> <p><i>Site fees are determined by how many acres are associated with a site. A permit can have</i></p>

	multiple sites; there is no limit on how many sites can be associated with a permit. Site fees are a fee established for location of the area being mined.		
	<b>Size of Site</b>	<b>Number of Sites</b>	<b>Site Fee</b>
	0.01 – 10 acres	191	x\$200 = \$38,200; however these sites already generate \$23,200 so the newly generated revenue is \$15,000.
	10.01 – 75 acres	240	x\$500 = \$120,000; however these sites already generate \$74,000 so the newly generated revenue is \$46,000.
	75.01 – 200 acres	99	x\$800 = \$79,200; however these sites already generate \$49,200 so the newly generated revenue is \$30,000.
	> 200.01 acres	32	x\$1,000 = \$32,000; however these sites already generate \$20,000 so the newly generated revenue is \$12,000.
	<b>Cap Amount:</b> Cap is the maximum fee collected by permit to include fees collected for permit, site and bonded acreage fees. Cap Amounts will be tiered as follows: \$6,000 beginning in 2017 \$7,500 beginning in 2019 \$9,000 beginning in 2021		

#### IV. ASSUMPTIONS

The proposed fee structure within the amendment, if not disapproved by the general assembly, becomes effective January 1, 2017 under statute.

Proposed fees to be paid by the private entities to the DNR are essentially the costs of the projected revenues.

Costs to private entities are calculated by multiplying the proposed fee amounts by the number of permit applicants per year based on bonded acres and number of acres associated with each site. Projected additional costs to the private sector are the estimated costs in the aggregate based on the current amount of permits and acreages associated with each site. Bonded acres are based on the current amount of bonded acres.

The current amount of acres associated with each site, along with the amount of permits and bonded acres will change based on management of each site over time.